



Province of Alberta

TOBACCO, SMOKING AND VAPING REDUCTION ACT

Statutes of Alberta, 2005
Chapter T-3.8

Current as of July 31, 2021

Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2022 cC-26.7 s80 amends s1(a.1).

Regulations

The following is a list of the regulations made under the *Tobacco, Smoking and Vaping Reduction Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Tobacco, Smoking and Vaping Reduction Act		
Tobacco, Smoking and Vaping Reduction.....	240/2007	4/2008, 24/2008, 169/2013, 201/2014, 239/2018, 81/2019, 141/2021

TOBACCO, SMOKING AND VAPING REDUCTION ACT

Chapter T-3.8

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “advertise” means to use any commercial communication, through any media or other means, that is intended to have or is likely to have the effect of
 - (i) creating an awareness of or association with a tobacco product or vaping product, a brand of tobacco product or vaping product or a manufacturer or seller of a tobacco product or vaping product, or
 - (ii) promoting the purchase or use of a tobacco product or vaping product or a brand of tobacco product or vaping product;
- (a.1) “group living facility” means
 - (i) a facility for the long-term care of veterans,
 - (ii) a nursing home under the *Nursing Homes Act*,
 - (iii) a facility as defined under the *Mental Health Act*,
 - (iv) a residential facility operated to provide accommodation and maintenance for unemployed or indigent adults only, or
 - (v) a supportive living accommodation licensed under the *Supportive Living Accommodation Licensing Act*;
- (b) “hotel” includes an inn, a guesthouse and a bed-and-breakfast facility;
- (c) “licensed premises” means licensed premises as defined under the *Gaming, Liquor and Cannabis Act* including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;

- (d) “manager” means an employer or other person who, directly or indirectly, controls, directs or is responsible for a place or who controls the activities in the place;
- (d.1) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (e) “minor” means a person who is under 18 years of age;
- (e.01) “peace officer” means a peace officer as defined in the *Provincial Offences Procedure Act*;
- (e.1) “pharmacy” means a pharmacy as defined in the *Pharmacy and Drug Act*;
- (e.2) “promote” means to use any commercial act or practice that is intended to encourage or is likely to encourage the purchase or use of a tobacco product or vaping product, or a brand of tobacco product or vaping product, or to create an awareness of or association with a tobacco product or vaping product, a brand of tobacco product or vaping product or a manufacturer or seller of a tobacco product or vaping product;
- (f) “public place” means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation including
 - (i) the common areas of a multi-unit residential facility, including patios, pools, other recreation areas and enclosed parking garages,
 - (ii) a group living facility,
 - (iii) an outdoor bus or taxi shelter,
 - (iv) licensed premises,
 - (v) a restaurant, and
 - (vi) a hotel;
- (g) “public vehicle” means a bus, taxi or other vehicle that is used to transport members of the public for a fee;
- (h) “restaurant” includes a coffee shop, cafeteria, sandwich stand, food court, any other eating establishment and an outdoor eating area that is part of or operated in conjunction with the restaurant;

- (h.1) “retailer” means a person engaged in a business that includes the sale of tobacco products or vaping products;
- (i) “smoke” means to smoke, hold or otherwise have control over a heated or lit tobacco product;
- (j) “tobacco product” means, subject to the regulations, a product composed in whole or in part of tobacco, including tobacco leaves, any extract of tobacco leaves and compressed tobacco, but does not include
 - (i) any solid, liquid or gas substance referred to in clause (j.2)(ii), or
 - (ii) any product for use in nicotine replacement therapy;
- (j.1) “vape” means to inhale or exhale the vapour produced by a vaping product;
- (j.2) “vaping product” means, subject to the regulations,
 - (i) a product or device that contains a power source and heating element intended for vaporizing a substance referred to in subclause (ii) for inhalation,
 - (ii) a solid, liquid or gas substance, whether or not the solid, liquid or gas substance contains nicotine, that is intended for use in a product or device referred to in subclause (i) and that, on being heated, produces a vapour, but does not include
 - (A) a controlled substance within the meaning of the *Controlled Drugs and Substances Act* (Canada),
 - (B) cannabis as defined in the *Cannabis Act* (Canada),
 - (C) compressed tobacco that is intended to be consumed by inhalation through a device that heats the compressed tobacco, or
 - (D) a drug as defined in the *Food and Drugs Act* (Canada),or
 - (iii) a cartridge or component for a product or device referred to in subclause (i);
- (k) “workplace” means all or any part of a building, structure or other enclosed area in which employees perform the duties

of their employment, whether or not members of the public have access to the building, structure or area as of right or by express or implied invitation, and includes reception areas, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms, lounges, storage areas, laundry rooms, enclosed parking garages and work vehicles;

- (l) “work vehicle” means a vehicle owned or leased by an employer and used by employees during the course of their employment.

2005 cS-9.5 s1;2007 c40 s3;2009 cS-23.5 s26;2013 c24 s3;
2013 cS-19.3 s25;2017 c21 s29;2020 c17 s3

Exclusions

2(1) Nothing in this Act affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies.

(2) Subject to section 4, this Act does not apply to a building, structure or vehicle, or a part of a building or structure, that is used as a private residence.

Smoking and vaping prohibited

3 Subject to section 5, no person shall smoke or vape

- (a) on a hospital property, including the building, grounds and parking areas used in relation to the hospital property,
- (b) on a child care facility property, including the building, grounds and parking areas used in relation to the child care facility property,
- (c) on a school property, including the building, grounds and parking areas used in relation to the school property,
- (d) in a workplace,
- (e) in a public place,
- (f) in a public vehicle,
- (g) in a vehicle in which a minor is present,
- (h) in or within a prescribed distance from any of the following:
 - (i) a playground;
 - (ii) a sports or playing field;

- (iii) a skateboard or bicycle park;
- (iv) a zoo;
- (v) an outdoor theatre;
- (vi) a public outdoor pool or splash pad;
- (vii) any other place that is prescribed or otherwise described in the regulations,

or

- (i) within a prescribed distance from a doorway, window or air intake of any place referred to in clauses (a) to (e) and (h)(vii), as the case may be.

2005 cS-9.5 s3;2007 c40 s4;2013 c24 s4;2020 c17 s4

Prohibition re minors

3.1 No minor shall possess or consume a tobacco product or vaping product or smoke or vape

- (a) in a place referred to in section 3,
- (b) in any outdoor place or area to which members of the public have access as of right or by express or implied invitation, including a highway within the meaning of the *Traffic Safety Act*, or
- (c) in a vehicle that is in a place referred to in section 3 or in an outdoor place or area referred to in clause (b).

2013 c24 s5;2020 c17 s4

Private residence

4(1) Subject to subsection (2), a private residence is a workplace if a home business is operated from the residence and the owner of the business has employees who work in the residence but do not live in the residence.

(2) Only that part of a private residence in which the business is operated is a workplace for the purposes of this Act.

Exceptions

5(1) An in-patient or resident of a group living facility may smoke or vape in a separate room in the facility if the room

- (a) is designated as a smoking room or vaping room or a smoking and vaping room, as the case may be, by the manager,

- (b) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking or vaping is prohibited under this Act,
 - (c) has a separate ventilation system, and
 - (d) conforms to any requirements prescribed by the regulations.
- (2)** A registered guest, and a person invited by the guest, may smoke or vape in a guest room of a hotel if the guest room
- (a) is designed primarily as sleeping accommodation,
 - (b) is designated as a smoking room or vaping room or a smoking and vaping room, as the case may be, by the manager,
 - (c) has floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking or vaping is prohibited under this Act, and
 - (d) conforms to any requirements prescribed by the regulations.

2005 cS-9.5 s5;2007 c40 s5;2020 c17 s5

Duties of managers

6 The manager of a place where smoking or vaping is prohibited under this Act must not permit a person to smoke or vape in that place.

2005 cS-9.5 s5;2020 c17 s6

Signs

7(1) The manager of a place where smoking or vaping is prohibited under this Act must ensure that signs indicating that smoking or vaping is prohibited are posted and continuously displayed in accordance with the regulations.

(2) The manager of a place where smoking or vaping is permitted under section 5 must ensure that signs indicating that smoking or vaping is permitted are posted and continuously displayed in accordance with the regulations.

(2.1) The manager of a place where tobacco products or vaping products are sold or offered for sale must ensure that signs indicating that it is illegal to sell tobacco products or vaping products to minors are posted and continuously displayed in accordance with the regulations.

(3) No person other than a manager or a person acting under the manager's instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this Act.

2005 cS-9.5 s7;2013 c24 s8;2020 c17 s7

Tobacco products and vaping products not to be displayed

7.1 No person shall, in any place where tobacco products or vaping products are sold or offered for sale, display or permit the display of tobacco products or vaping products in any manner that would permit a consumer to view or handle a tobacco product or vaping product before purchasing it.

2007 c40 s6;2020 c17 s8

Tobacco products and vaping products not to be advertised or promoted

7.2(1) No person shall advertise or promote tobacco products or vaping products

- (a) in any place where tobacco products or vaping products are sold or offered for sale, or
- (b) in any manner if the advertisement or promotion is visible from outside a place in which tobacco products or vaping products are sold or offered for sale.

(2) Despite subsection (1), a place described in subsection (1)(a) may have one or more signs that lists the tobacco products or vaping products offered for sale and their prices if the signs comply with the requirements prescribed by the regulations.

2007 c40 s6;2020 c17 s9

Minimum package size

7.21 No person shall sell or offer for sale a tobacco product designated in the regulations in a package containing less than the number of units prescribed by the regulations.

2013 c24 s9

Sale in certain places prohibited

7.3 No person shall sell tobacco products or vaping products, or offer tobacco products or vaping products for sale,

- (a) at a health facility in which one or more health professionals regulated under the *Health Professions Act* or another enactment provide services,
- (b) at the campus of a public post-secondary institution as defined in the *Post-secondary Learning Act*,
- (c) at a pharmacy,

- (d) at a retail store if
 - (i) a pharmacy is located in the retail store, or
 - (ii) customers of the pharmacy referred to in subclause (i) can enter the retail store directly or by use of a corridor or area used exclusively to connect the pharmacy with the retail store,
- (e) at any temporary or mobile outlets or premises, or
- (f) from a vending machine.

2007 c40 s6;2020 c17 s10

Sale of flavoured tobacco products prohibited

7.4(1) In this section, “flavoured tobacco product” means a tobacco product that

- (a) has a characterizing flavour,
- (b) is represented as being flavoured, or
- (c) is designated under the regulations as a flavoured tobacco product.

(2) No person shall sell or offer for sale a flavoured tobacco product.

2013 c25 s2

Sale of flavoured vaping products prohibited

7.41(1) In this section, “flavoured vaping product” means a vaping product that is designated under the regulations as a flavoured vaping product.

(2) No person shall sell or offer for sale a flavoured vaping product.

2020 c17 s11

Furnishing to minors prohibited

7.5(1) No person shall furnish or offer to furnish a tobacco product or vaping product to a minor in a place referred to in section 3 or 3.1.

(2) No person shall furnish or offer to furnish a tobacco product or vaping product in a place referred to in section 3 or 3.1 to a person who appears to be less than 25 years of age unless the person requires the person who appears to be less than 25 years of age to provide a prescribed form of identification and is satisfied that the person is at least 18 years of age.

(3) It is a defence to a charge under subsection (1) that the defendant reasonably believed the person to whom the tobacco product or the vaping product, as the case may be, was furnished or offered to be at least 18 years of age because

- (a) the person provided a prescribed form of identification showing his or her age, and
- (b) there was no apparent reason to doubt the authenticity of the identification or that it was issued to the person providing it.

2013 c24 s10;2020 c17 s12

Collection, use and disclosure of information

7.6(1) Subject to subsection (2) and the regulations, the Minister may collect from any person any information that the Minister considers necessary to use and disclose for the purposes of administering or enforcing this Act and the regulations, and the person must disclose the information.

(2) If the information disclosed under subsection (1) is personal information as defined in the *Freedom of Information and Protection of Privacy Act*, the Minister may collect and use that personal information for the purposes of administering or enforcing this Act and the regulations.

(3) Information collected under this Act may be disclosed to

- (a) the Government of Canada,
- (b) the government of a province or territory, and
- (c) the government of any other jurisdiction,

if the information is used solely for the purpose of administering or enforcing a smoking or vaping statute of Canada or of that province, territory or other jurisdiction and the Government of Canada or government of that province, territory or other jurisdiction supplies the Government of Alberta with similar information under an information-sharing agreement.

(4) Information collected under this Act may be disclosed to the President of Treasury Board and Minister of Finance for the purpose of administering or enforcing enactments for which the President of Treasury Board and Minister of Finance is responsible.

(5) No person to whom information is disclosed under subsection (3), (4) or (8) shall further disclose or use that information for any purpose other than the purpose for which it was disclosed to that person.

(6) Notwithstanding subsection (5), a person may communicate information to any person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) for the purpose of investigating and prosecuting an offence.

(7) The Minister may, in accordance with the regulations, publish the following information about a retailer:

- (a) the name of the retailer;
- (b) the address of the retailer;
- (c) the type of retailer;
- (d) any other information prescribed by the regulations.

(8) Information collected under this Act may be disclosed to and used by a person employed or engaged by the Government of Alberta if the information is to be used for the purposes of formulating or analyzing tax, fiscal or health policy.

2020 c17 s12

Offences

8(1) A person who contravenes section 3 or a provision in the regulations designated by the regulations as a provision the contravention of which is an offence is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$1000, and
- (b) for a 2nd or subsequent offence, to a fine of not more than \$5000.

(1.1) A minor who contravenes section 3.1 is guilty of an offence and liable to a fine of not more than \$100.

(1.2) A person who contravenes section 7.5 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000, and
- (b) for a 2nd or subsequent offence, to a fine of not more than \$100 000.

(2) A person who contravenes section 6, 7, 7.1, 7.2, 7.3, 7.4 or 7.41 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000, and

(b) for a 2nd or subsequent offence, to a fine of not more than \$100 000.

(3) A person who contravenes section 7.21 is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$10 000, and

(b) for a 2nd or subsequent offence, to a fine of not more than \$100 000.

2005 cS-9.5 s8;2007 c40 s7;2013 c24 s11;
2013 c24 s11;2013 c25 s2;2020 c17 s13

Description of offence

8.1 In describing an offence respecting smoking or vaping as prohibited under section 3, it is not necessary to specify the kind, brand or name of the tobacco product or vaping product used in the offence.

2007 c40 s7;2013 c24 s12;2020 c17 s14

Description — offence by minor

8.11 In describing an offence respecting possessing or consuming a tobacco product or vaping product or smoking or vaping as prohibited under section 3.1, it is not necessary to specify the kind, brand or name of the tobacco product or vaping product used in the offence.

2013 c24 s13;2020 c17 s15

Testimony of witness

8.2 In a prosecution under this Act respecting smoking or vaping as prohibited under section 3, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product or vaping product used in the offence.

2007 c40 s7;2013 c24 s14;2020 c17 s16

Testimony of witness — offence by minor

8.21 In a prosecution under this Act respecting possessing or consuming a tobacco product or vaping product or smoking or vaping as prohibited under section 3.1, it is not necessary that a witness testify to the precise description, kind, brand or name of the tobacco product or vaping product used in the offence.

2013 c24 s15;2020 c17 s17

Inference of product

8.3 In a prosecution under this Act, the court trying the case may, in the absence of evidence to the contrary, infer that the product possessed, consumed, smoked or vaped was a tobacco product or vaping product from the fact that a witness describes it by a name that is commonly used to describe a tobacco product or vaping product, as the case may be.

2007 c40 s7;2013 c24 s16;2020 c17 s18

Inference in respect of age

8.31 Where a peace officer requests a person to produce proof of age and

- (a) the person refuses to produce identification, or
- (b) the person produces identification and the peace officer believes the identification to be false or altered,

the court trying the case may, in the absence of evidence to the contrary, infer that the person charged is a minor.

2013 c24 s17

Certificate or report of analysis

8.32(1) The Minister may designate a person to act as an analyst with respect to any analysis or description of any tobacco product, tobacco-like product or vaping product for the purposes of or in connection with this Act and the regulations.

(2) In a prosecution under this Act, a certificate or report of analysis furnished by an analyst designated under subsection (1) is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it and of the authority of the person furnishing the certificate or report without proof of the designation or signature of the analyst.

(3) No certificate or report of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate or report.

(4) A person to whom a notice of intention to produce is given under subsection (3) may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.

2013 c24 s18;2020 c17 s19

Prohibition order

8.4(1) If a retailer is convicted of a 3rd or subsequent offence for a contravention of section 7.1 or 7.2, the Minister may by order in writing prohibit the retailer from selling tobacco products or vaping

products at the place at which the offence took place, or at any place to which the business of the retailer is moved, for the period of time provided for in the order.

(2) A retailer who fails to comply with an order made under subsection (1) is guilty of an offence and liable to a fine of not more than \$100 000 for each day during which non-compliance continues.

2007 c40 s7;2020 c17 s20

Directors, etc. of corporations

8.5 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of that offence and liable to the penalty provided for the offence whether or not the corporation has been prosecuted for or convicted of that offence.

2007 c40 s7

Vicarious liability

8.6 In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for or convicted of the offence, unless the accused establishes that the offence was committed without the accused's knowledge and that the accused exercised all due diligence to prevent its commission.

2007 c40 s7

Regulations

9 The Lieutenant Governor in Council may make regulations

- (a) for the purposes of this Act,
 - (i) designating a place or class of places as a child care facility property, group living facility, hospital property, hotel, public place, restaurant, school property or workplace;
 - (ii) designating an outdoor place or area, or class of outdoor places or areas, as an outdoor place or area to which members of the public have access as of right or by express or implied invitation;
- (b) for the purposes of section 1(j),
 - (i) designating a product as a tobacco product;
 - (ii) excluding a product from the definition of tobacco product;

- (c) for the purposes of section 1(j.2),
 - (i) designating a product, device or substance as a vaping product;
 - (ii) excluding a product, device or substance from the definition of vaping product;
- (d) for the purposes of section 3,
 - (i) prescribing distances from the places referred to in section 3(h) and (i), which may be general or specific in their application and may include different distances from a doorway, window or air intake with respect to different classes of places;
 - (ii) prescribing or describing a place referred to in section 3(h)(vii);
- (e) prescribing requirements for the purposes of section 5(1)(d) and (2)(d);
- (f) for the purposes of sections 7 and 7.2, respecting the form and contents, the manner of posting, the display and the location of signs;
- (g) for the purposes of section 7.21,
 - (i) prescribing numbers of units;
 - (ii) designating tobacco products or classes of tobacco products to which section 7.21 applies;
- (h) for the purposes of section 7.4,
 - (i) designating a tobacco product as a flavoured tobacco product;
 - (ii) respecting the exemption of a flavoured tobacco product from the prohibition in section 7.4(2);
- (i) for the purposes of section 7.41,
 - (i) designating a vaping product as a flavoured vaping product;
 - (ii) respecting the exemption of a flavoured vaping product from the prohibition in section 7.41(2);
- (j) for the purposes of this Act,

- (i) respecting the appointment or designation of inspectors;
- (ii) respecting the powers, duties and obligations of inspectors, including, without limitation, regulations authorizing inspectors
 - (A) to make any inspection, investigation or inquiry that the inspector considers necessary under this Act;
 - (B) at any reasonable time to enter any place where tobacco products or vaping products are sold;
 - (C) at any reasonable time to enter any place containing records that relate to the sale of tobacco products or vaping products, and to inspect those records;
 - (D) to make copies of any records described in paragraph (C);
 - (E) to seize any tobacco products and vaping products and displays related to tobacco products and vaping products for the purposes of administering or enforcing this Act and the regulations and any order made under section 8.4;
- (iii) respecting the handling and disposition of seized tobacco products and vaping products and displays related to tobacco products and vaping products;
- (k) for the purposes of this Act,
 - (i) respecting the training of retailers, including the training by retailers of their employees regarding compliance with this Act;
 - (ii) respecting the reporting by retailers of their activities that are governed by this Act;
- (l) prescribing the forms of identification for the purposes of section 7.5(2) and (3);
- (m) for the purposes of section 7.6, respecting the collection, use and disclosure of information, including the nature of the information and the form and manner of disclosure;
- (n) respecting the form, contents and service of orders made under section 8.4;

- (o) respecting the exemption of a person or a class of persons from the application of all or any of the provisions of this Act or the regulations;
- (p) respecting the exemption of a place or a class of places from the application of all or any of the provisions of this Act or the regulations;
- (q) designating provisions in the regulations the contravention of which is an offence;
- (r) defining any word or phrase used but not defined in this Act;
- (s) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

2005 cS-9.5 s9;2007 c40 s8;2013 c24 s19;2013 c25 s4;
2020 c17 s21

Municipal by-laws

10(1) Nothing in this Act affects a municipality's power to make bylaws to regulate, restrict or prohibit smoking or vaping.

(2) Where there is a conflict between a provision of this Act and a provision of a municipal bylaw that regulates, restricts or prohibits smoking or vaping, the more restrictive provision prevails.

2005 cS-9.5 s10;2020 c17 s22

Crown bound

11 This Act binds the Crown.

Repeal

12 The *Protection from Second-hand Smoke in Public Buildings Act* is repealed.

Review

12.1 The Minister must commence a review of this Act within 5 years after this section comes into force.

2013 c24 s21

Commencement

13 This Act comes into force on Proclamation.

(NOTE: Proclaimed in force January 1, 2006.)



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